

AMENDED IN ASSEMBLY MARCH 15, 2016

CALIFORNIA LEGISLATURE—2015–16 REGULAR SESSION

**ASSEMBLY BILL**

**No. 2128**

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**Introduced by Assembly Member Achadjian**

February 17, 2016

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An act to amend Section ~~3064~~ 420 of the Family Code, relating to ~~child custody~~: *marriage*.

LEGISLATIVE COUNSEL'S DIGEST

AB 2128, as amended, Achadjian. ~~Child custody: ex parte orders.~~  
*Marriage.*

*Existing law allows a member of the Armed Forces of the United States who is stationed overseas and serving in a conflict or a war and is unable to appear for the licensure and solemnization of the marriage to enter into that marriage by the appearance of an attorney in fact.*

*This bill would remove the requirement that the member of the Armed Forces of the United States be serving in a conflict or war.*

~~Existing law requires a court to refrain from making an order granting or modifying a custody order on an ex parte basis unless there has been a showing of immediate harm to the child or immediate risk that the child will be removed from the state.~~

~~This bill would make nonsubstantive changes to that provision.~~

Vote: majority. Appropriation: no. Fiscal committee: no.  
State-mandated local program: no.

*The people of the State of California do enact as follows:*

1     SECTION 1. Section 420 of the Family Code is amended to  
2     read:

1     420. (a) No particular form for the ceremony of marriage is  
2 required for solemnization of the marriage, but the parties shall  
3 declare, in the physical presence of the person solemnizing the  
4 marriage and necessary witnesses, that they take each other as  
5 spouses.

6     (b) Notwithstanding subdivision (a), a member of the Armed  
7 Forces of the United States who is stationed overseas ~~and serving~~  
8 ~~in a conflict or a war~~ and is unable to appear for the licensure and  
9 solemnization of the marriage may enter into that marriage by the  
10 appearance of an attorney in fact, commissioned and empowered  
11 in writing for that purpose through a power of attorney. The  
12 attorney in fact must personally appear at the county clerk's office  
13 with the party who is not stationed overseas, and present the  
14 original power of attorney duly signed by the party stationed  
15 overseas and acknowledged by a notary or witnessed by two  
16 officers of the United States Armed Forces. Copies in any form,  
17 including by facsimile, are not acceptable. The power of attorney  
18 shall state the full given names at birth, or by court order, of the  
19 parties to be married, and that the power of attorney is solely for  
20 the purpose of authorizing the attorney in fact to obtain a marriage  
21 license on the person's behalf and participate in the solemnization  
22 of the marriage. The original power of attorney shall be a part of  
23 the marriage certificate upon registration.

24     (c) No contract of marriage, if otherwise duly made, shall be  
25 invalidated for want of conformity to the requirements of any  
26 religious sect.

27     ~~SECTION 1. Section 3064 of the Family Code is amended to~~  
28 ~~read:~~

29     ~~3064. (a) The court shall refrain from making an order granting~~  
30 ~~or modifying a custody order on an ex parte basis unless there has~~  
31 ~~been a showing of immediate harm to the child or immediate risk~~  
32 ~~that the child will be removed from the State of California.~~

33     ~~(b) "Immediate harm to the child" includes, but is not limited~~  
34 ~~to, either of the following:~~

35     ~~(1) Having a parent who has committed acts of domestic~~  
36 ~~violence, if the court determines that the acts of domestic violence~~  
37 ~~are of recent origin or are a part of a demonstrated and continuing~~  
38 ~~pattern of acts of domestic violence.~~

- 1     ~~(2) Sexual abuse of the child, if the court determines that the~~
- 2     ~~acts of sexual abuse are of recent origin or are a part of a~~
- 3     ~~demonstrated and continuing pattern of acts of sexual abuse.~~

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